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7 Attorney for  
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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 A.B., a minor, By and Through  
11 W.F.B., His Guardian Ad Litem,  
12 Plaintiff,

13 v.

14 SAN FRANCISCO UNIFIED  
15 SCHOOL DISTRICT,  
16 Defendant.

CASE NO. C07-4738 PJH

MOTION FOR ADMINISTRATIVE  
RELIEF TO PROTECT PLAINTIFF'S  
RIGHT TO PRIVACY BY PROCEEDING  
UNDER PSEUDONYM & FILING  
SPECIFIC DOCUMENTS UNDER SEAL

Memorandum of Points and Authorities  
Contained Herein and Declaration in  
Support of Application Filed Concurrently  
Herewith

17 \_\_\_\_\_/  
18 Pursuant to Local Rule 79-5, on behalf of Plaintiff A.B. by and through his Guardian Ad  
19 Litem, W.F.B., Roberta S. Savage, counsel for Plaintiff, hereby moves this Court for an order that  
20 (1) Plaintiff and his Guardian Ad Litem may proceed with this action under the names "A.B." and  
21 "W.F.B." respectively; and that (2) all documents filed by any party that contain any personally  
22 identifiable information, of Plaintiff, his Guardian Ad Litem or their family, including any document  
23 with any portion of Plaintiff's, his Guardian Ad Litem's or their family's name, be filed under seal.

24 This motion is based upon all papers and pleadings filed in this matter, the following points  
25 and authorities, the separately filed Affidavit of Counsel in Support of Plaintiff's Motion to Protect  
26 Plaintiff's Right to Privacy by Proceeding Under a Pseudonym, which Plaintiff has submitted to be

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Motion for Administrative Relief to Protect Plaintiff's Right to Privacy by Proceeding under a Pseudonym & Filing  
Specific Documents Under Seal

1 filed under seal and which reveals the full names of Plaintiff and his Guardian Ad Litem, and a  
2 Declaration of Counsel in Support of Plaintiff's Administrative Motion to File Affidavit of Counsel  
3 Under Seal.

4 MEMORANDUM OF POINTS AND AUTHORITIES

5 The instant case was filed against Defendant SAN FRANCISCO UNIFIED SCHOOL  
6 DISTRICT pursuant to the Individuals with Disabilities Education Act (*hereinafter* "IDEA"). (*See*  
7 *generally* 20 U.S.C. §§1400 et seq.). As alleged in the complaint, Plaintiff is an eleven year old  
8 child with a disability. Plaintiff and his Guardian Ad Litem wish to proceed with this case under the  
9 names "A.B." and "W.F.B.," respectively, so that Plaintiff's privacy rights will be protected.  
10 Plaintiff and his Guardian Ad Litem also request that no documents be filed on the public record  
11 with their full names and/or other personally identifiable information.

12 Plaintiff, as a minor middle school student and a child with a disability, has a constitutionally  
13 and statutorily protected privacy interest in avoiding disclosure of personal matters, such as  
14 educational records and medical records. (*See e.g. Norman-Bloodsaw v. Lawrence Berkeley*  
15 *Laboratory*, 138 F.3d 1260, 1273-74 (9<sup>th</sup> Cir. 1998) (constitutional right to privacy). The statutory  
16 protections are guaranteed by the IDEA and the federal regulations promulgated thereunder (34  
17 C.F.R. §§300.560-576 (confidentiality of student's records)), as well as the Family Educational  
18 Rights and Privacy Act of 1974 (*hereinafter* "FERPA"), as amended, Section 1232g(b) of Title 20  
19 of the United States Code and the federal regulations promulgated thereunder, commencing at  
20 Section 99.1 of Title 34 of the Code of Federal Regulations (20 U.S.C. §1232g(b); 34 C.F.R. §§ 99.1  
21 *et seq.* (Subparts A and D). The phrase "personally identifiable information" is defined similarly,  
22 both in the IDEA regulations and FERPA regulations, as including the student's name; the student's  
23 address, the name of the student's parent or other family member; a personal identifier, such as a  
24 social security number or student number; a list of personal characteristics or other information that  
25 would make it possible to identify the student. (*See* 34 C.F.R. §300.500 (IDEA); *see also* 34 C.F.R.  
26 §99.3 (FERPA)).

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1 Defendant will not be prejudiced by allowing Plaintiff to use a pseudonym and requiring  
2 Defendant to file documents with personally identifiable information under seal, because Defendant  
3 will be served with the Affidavit of Counsel, which identifies the full names of Plaintiff and his  
4 Guardian Ad Litem. Defendant has personal knowledge of the identity of Plaintiff and his family  
5 and the dispute. Requiring documents to be filed under seal will not in any way prejudice Defendant,  
6 as Defendant will be on notice regarding how to file all documents in this matter. Finally, although  
7 the public, generally, has an interest in the actions brought before the federal courts, Plaintiff's  
8 privacy interest outweighs the public interest, and the public has no interest in the identity of the  
9 named Plaintiff that outweighs the Plaintiff's interest in keeping sensitive information confidential.

10 Plaintiff's request is consistent with the Local Rule 3-17 (a)(2) which requires that in any  
11 matter where a minor is referenced in a pleading, the minor should be referenced using initials only.

12 Accordingly, Plaintiff requests that the Court enter an order that (1) Plaintiff and his  
13 Guardian Ad Litem may proceed with this action under the names "A.B." and "W.F.B." respectively;  
14 and that (2) all documents filed by any party that contain any personally identifiable information, of  
15 Plaintiff, his Guardian Ad Litem or their family, including any document with any portion of  
16 Plaintiff's, his Guardian Ad Litem's or their family's name, be filed under seal.

17 Respectfully Submitted,

18 ROBERTA S. SAVAGE

19 Attorney for Plaintiff A.B.

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21 Dated: September 26, 2007

22 By: \_\_\_\_\_  
23 Roberta S. Savage

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